

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CARL ALONZO BROOKS,

Plaintiff,

v.

INDETERMINATE SENTENCE REVIEW  
BOARD, et al.,

Defendants.

Case No. C11-5152RJB/JRC

ORDER ADOPTING REPORT AND  
RECOMMENDATION WITH  
MODIFICATION AND DISMISSING  
CASE UNDER 28 U.S.C. § 1915(e)(2)(B)  
AND 28 U.S.C. § 1915(g)

The Court, having reviewed the Report and Recommendation of Magistrate Judge J. Richard Creatura (Dkt. 9), objections to the Report and Recommendation (Dkt. 10 and 11), and the remaining record, does hereby find and **ORDER**:

1. It is unclear from the pleadings whether plaintiff is challenging a decision of the Indeterminate Sentence Review Board or whether he is complaining about his conditions of confinement. The court concurs with the Report and Recommendation regarding the merits of plaintiff's complaint. The complaint is frivolous and fails to state a claim. Dismissal of this action should be considered a strike pursuant to 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915(g). The court does not conclude that this complaint is malicious. The Court **ADOPTS** the Report and Recommendation with the modification that the complaint is not deemed to be malicious.
2. On March 23, 2011, plaintiff filed a first amended civil rights complaint. Dkt. 10. Assuming that plaintiff intended that this document be considered as an objection to the Report and Recommendation, the court has considered it and has concluded that the objections are without merit. In the event that plaintiff intended that this document be considered an amended complaint, the court has carefully reviewed the proposed amended complaint. Because plaintiff filed this complaint *pro se*, the court has construed the pleadings liberally and has afforded plaintiff the benefit of any doubt. *See Karim-Panahi v. Los Angeles Police Dep't*,

839 F.2d 621, 623 (9th Cir.1988). The proposed amended complaint suffers from the same deficiencies as did the original complaint. The proposed amended complaint has no arguable basis in fact or in law, is frivolous, and fails to state a claim.

3. The court has reviewed plaintiff's objections to the Report and Recommendation, filed on March 31, 2011. Dkt. 11. The objections are without merit. Further, to the extent that plaintiff intends that his objections to the Report and Recommendation (Dkt. 11) be considered a motion to amend the complaint, that motion is without merit and is **DENIED**.


3. This action is **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B), and the dismissal constitutes a strike under 28 U.S.C. §1915 (g).

4. *In forma pauperis* status is **REVOKED** for purposes of appeal.

The Clerk is directed to send a copy of this Order to plaintiff, and to the Hon. J. Richard

Creatura.

DATED this 11th day of April, 2011.



ROBERT J. BRYAN  
United States District Judge